

Application No.: 10/791,046

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Docket No.: 509982005900

**REMARKS**

In the final Office Action mailed on October 16, 2006, claims 1-50 were rejected. Applicants request reconsideration in view of the following remarks.

**I. Claim Rejections – 35 USC 102**

Claims 1-3, 5-6, 8-20, 22-24, 26, 27, 29-35, 37, 39, 40, and 42-49 were rejected under 35 USC 102(e) as being anticipated by U.S. Patent Pub. No. 2004/0267397 (the Doddi reference).

Independent claims 1 and 22 recite, “if the one or more termination criteria are not met, modifying the optimized profile model.” (Emphasis added.) Independent claim 37 recites, “if one or more termination criteria are not met, the optimized profile model is modified.” (Emphasis added.)

In the final Office Action, the Examiner cites to paragraph [0057] as disclosing “modifying the optimized profile if one or more termination criteria are met.” The Examiner also asserts, “[t]he optimal process is adjusting the training process of a profile to reach a desired value.” (Emphasis added.) Applicants assert that paragraph [0057] clearly does not support the Examiner’s assertions.

As an initial matter, the concept of a training process of a profile doesn’t make sense. Instead, paragraph [0057] discloses re-training the machine learning system not the profile as asserted by the Examiner.

Also, paragraph [0057] makes no mention of modifying or adjusting a profile. Instead, paragraph [0057] discloses generating a diffraction signal for a profile from a set of profiles used as testing input data. The generated diffraction signal is compared to a diffraction signal from a set of diffraction signals in testing output data. If the difference is not within a desired or predetermined margin, the machine learning system is re-trained. This process disclosed in paragraph [0057] does not involve modifying or adjusting the profiles in the set of profiles used as testing input data.

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Thus, Applicants assert that independent claims 1, 22, and 37 are allowable over the Doddi reference. Applicants also assert that claims 2-3, 5-6, 8-20, 23-24, 26, 27, 29-35, 39, 40, and 42-49 are allowable for at least the reason that they depend from allowable independent claims.

## II. Claim Rejections – 35 USC 103

Claims 4, 7, 21, 25, 28, 36, 38, 41, and 50 were rejected under 35 USC 103(a) as being unpatentable over the Doddi reference in view of U.S. Pat. Pub. No. 2004/0017575 (the Balasubramanian reference).

In Applicants' earlier response, Applicants asserted that the Doddi reference could not be used as a reference under 35 USC 103 because the Doddi reference and the present application were assigned to Timbre Technologies, Inc. at the time of filing. The Examiner failed to respond to this point in the final Office Action.

Thus, Applicants assert that claims 4, 7, 21, 25, 28, 36, 38, 41, and 50 are allowable. Additionally and alternatively, Applicants assert that claims 4, 7, 21, 25, 28, 36, 38, 41, and 50 are allowable for at least the reason that they depend from allowable independent claims.

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**III. Conclusion**

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, Applicants petition for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 509982005900. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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Respectfully submitted,

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